

DENNIS J. HERRERA, State Bar #139669
City Attorney
KRISTEN A. JENSEN, State Bar #130196
THOMAS S. LAKRITZ, State Bar #161234
VICTORIA WONG, State Bar #214289
Deputy City Attorneys
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Telephone: (415) 554-6547
Facsimile: (415) 554-4747
E-Mail: tom.lakritz@sfgov.org

Attorneys for Defendant
CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

METRO FUEL LLC, a Delaware limited liability company,

Plaintiff.

vs.

CITY OF SAN FRANCISCO, a municipal corporation, COUNTY OF SAN FRANCISCO, a subdivision of the State of California, CITY AND COUNTY OF SAN FRANCISCO, a chartered California city and county and DOE 1 through DOE 10,

Defendants.

Case No. C07-6067 JSW

STIPULATION AND PROPOSED ORDER

1 WHEREAS, on April 17, 2008, the parties filed a stipulation and proposed order giving
 2 Plaintiff Metro Fuel LLC an opportunity to file an Amended Complaint and setting a briefing and
 3 argument schedule for Defendant City and County of San Francisco to file a Motion to Dismiss; and

4 WHEREAS, on April 17, 2008, the Court adopted the parties' proposed order, and

5 WHEREAS, Defendant City and County of San Francisco's Motion to Dismiss is currently
 6 due on Friday, May 9, 2008, and the hearing is set for June 20, 2008, and

7 WHEREAS, the United States Court of Appeals for the Ninth Circuit recently scheduled oral
 8 argument for June 4, 2008, at 9:00 a.m., in Pasadena, California, in *Metro Lights, L.L.C. v. City of*
 9 *Los Angeles*, 488 F.Supp.2d 927 (C.D. Cal. 2006), *appeal docketed*, No. 07-55179 (9th Cir. Feb. 1,
 10 2007) and *Metro Lights, L.L.C. v. City of Los Angeles* No. 04-1037, 2006 WL 4941839 (C.D. Cal.
 11 Nov. 3, 2006), *appeal docketed*, No. 07-55207 (9th Cir. Feb. 9, 2007); and

12 WHEREAS, Plaintiff Metro Fuel LLC and Defendant City and County of San Francisco
 13 believe that the issues under consideration in the two appeals mentioned above are close to the issues
 14 involved in this litigation; and

15 WHEREAS, the parties mutually believe that because of the closeness of the issues involved
 16 it would be prudent and efficient for the parties and for the Court to stay the present litigation until
 17 the Ninth Circuit resolves the two appeals; and

18 WHEREAS, Plaintiff Metro Fuel LLC is only willing to stay the present litigation provided
 19 that Defendant City and County of San Francisco agrees to stay enforcement of the local ordinances
 20 at issue in the present litigation with respect to the signs at issue in this litigation; and

21 WHEREAS, the parties agree to work in good faith to negotiate the terms of an appropriate
 22 stay of enforcement of the local ordinances during the pendency of the present litigation; and

23 WHEREAS, the parties agree to file a joint statement by May 23, 2008, informing the Court
 24 of the status of the negotiations on the stay of enforcement; and

25 WHEREAS, the parties agree that the Court's April 17, 2008 order setting a briefing schedule
 26 on Defendant City and County of San Francisco's motion to dismiss should be vacated and new dates
 27 should be determined after the parties file their joint statement by May 23, 2008; and

28 NOW, THEREFORE, it is hereby STIPULATED and AGREED as follows:

1 1. The Court's April 17, 2008 order setting a briefing schedule on Defendant City and County
2 of San Francisco's Motion to Dismiss is vacated.

3 2. The parties shall file a joint statement by May 23, 2008, informing the Court of the status
4 of the negotiations and either (a) proposing that the litigation be stayed pending a decision by the
5 Ninth Circuit or (b) proposing further dates, if necessary, for the briefing of Defendant City and
6 County of San Francisco's motion to dismiss.

7
8 DATED: May 8, 2008

DENNIS J. HERRERA
City Attorney

9
10 By: /s/
11 THOMAS S. LAKRITZ

12 Attorneys for Defendant CITY AND COUNTY OF
13 SAN FRANCISCO

14
15 DATED: May 8, 2008

EMERY CELLI BRINCKERHOFF & ABADY LLP

16
17 By: /s/
18 ERIC HECKER

19 Attorneys for Plaintiff METRO FUEL, LLC

20 IT IS SO ORDERED:

21
22
23 DATED: _____ By: _____
24 THE HONORABLE JEFFREY S. WHITE